

**REMARKS**

Claims 11, 14, and 21-23 were pending in the application. Claims 11, 21, and 22 have been amended and new claims 24-36 have been added. Accordingly, following entry of the amendments presented herein, claims 11, 14, 21-26 will be pending. For the Examiners convenience, all of these claims are presented above.

Claim 11 has been amended to specify that the recited composition, containing a therapeutically effective amount of a compound isolated from cranberry, is suitable for administering to a subject ***in a form suitable and in an amount effective to prevent or treat a cancer or hypercholesterolemia***. Claims 21 and 22 have been rewritten in independent form. Newly added claims 24-26 further specify that the cancer can be metastatic, a breast cancer, or that the hypercholesterolemia is associated with altered apoB levels. Support for the amendment and newly added claims can be found throughout the specification, and in particular, at page 2, lines 18-26; page 10, lines 12-19; and in claims 1-4 as originally filed. No new matter has been added to the application by way of this amendment.

The foregoing claim amendments have been made solely for the purpose of expediting prosecution of the present application and should in no way be construed as an acquiescence to any of the Examiner's rejections in this or in any former Office Action issued in the present application. Applicants reserve the right to pursue the subject matter of the present claims prior to being amended herein in this application or in another related application.

In view of the foregoing claim amendments and the arguments set forth below, Applicants respectfully submit that the claims are now in condition for allowance.

***Rejection of Claims 11, 14, and 21-23 Under 35 U.S.C. §102(b)***

The Examiner rejects claims 11, 14, and 21-23 under 35 U.S.C. §102(b) as being anticipated by Jones *et al.* (WO98/30228; hereafter "Jones"). The Examiner characterizes Jones as teaching "a composition compris[ing] a cinnamic acid...for treating influenza, therefore the cinnamic acid is administered in therapeutically effective amounts", thereby resulting in a composition having the same characteristics as the claimed invention.

Applicants respectfully disagree. As amended, the present claims are drawn to compositions comprising a compound isolated from cranberry ***in a form suitable and in an amount effective to prevent or treat a cancer or hypercholesterolemia***. The claims are further drawn to a foodstuff (and dietary supplements) comprising a compound isolated from cranberry in a therapeutically effective amount. Indeed, one highly desirable feature of the claimed compositions is that they are especially well suited for use in food or pharmaceutical applications.

In contrast, Jones merely identifies cinnamic acid as a potential compound for treating an influenza virus infection. Indeed, Jones is solely directed to the treatment of an infection by the influenza virus (see, *e.g.*, pg. 3, lines 10-17). Jones makes no mention of any composition whatsoever for treating any other disease or disorder except for an influenza virus infection. Nor does Jones teach or suggest a foodstuff (or dietary supplements) comprising a composition containing a therapeutically effective amount of a compound isolated from cranberry. This is not surprising since oral ingestion of a foodstuff is well known to be an unsuitable route for administering anti-viral agents.

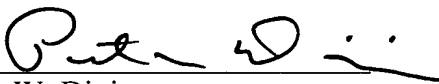
Accordingly, because Jones fails to teach a composition or a foodstuff having the features of the claimed invention, *i.e.*, having the particular form or therapeutically effective amount of active ingredient, Applicants respectfully request that the rejection under 35 U.S.C. §102(b), be withdrawn.

### **CONCLUSION**

In view of the foregoing, entry of the amendments and remarks herein, reconsideration and withdrawal of all rejections, and allowance of the instant application with all pending claims are respectfully solicited. If a telephone conversation with Applicants' attorney would help expedite the prosecution of the above-identified application, the Examiner is urged to call Applicants' attorney at (617) 227-7400.

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Respectfully submitted,

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